

**OCCUPATIONAL SAFETY
AND HEALTH STANDARDS BOARD**

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**ADDENDUM TO THE
FINAL STATEMENT OF REASONS****CALIFORNIA CODE OF REGULATIONS**

TITLE 8: Chapter 4, Subchapter 13, Articles 1, 1.5, 2, 4, 5, 7, and 12; Sections 6249, 6251, 6260, 6262, 6270, 6272, 6281, 6282, 6283, 6290, 6295, 6328, 6329, and Appendix A, Radio Control Signaling Devices of the Logging and Sawmill Safety Orders (LSSOs).

Amendments to the Logging and Sawmill Safety Orders with regard to Logging Operations

There are no modifications to the information contained in the Initial Statement of Reasons except for the following sufficiently related modifications which are the result of public comments and/or Occupational Safety and Health Standards Board (Board) staff evaluation of federal Occupational Safety and Health Administration (OSHA) regulations.

Section 6251. First Aid**Subsection (d)(1)**

Subsection (d) contains first-aid training requirements for logging and sawmill operations. A modification was proposed in the 15-day notice for subsection (d)(1) to add a sentence, "At fixed sawmill facilities, in the absence of an infirmary, clinic, or hospital, in proximity to the workplace, which is used for the treatment of all injured employees, a person or persons shall be certified in, and available to render, first aid." A "Note" was proposed to the subsection to define that the term "proximity" means that medical treatment for injured employees could be provided within a distance of 10 miles from the work site.

Upon further discussion and review of the proposal with Division of Occupational Safety and Health (Division) representatives and medical personnel involved in emergency medical response by helicopter and vehicle it was determined that the time involved to obtain medical assistance is more relevant than the distance from the work site. This is because in logging or forestry areas, depending on the terrain and rural road conditions, it could take an extended period of time to travel 10 miles. Of relevance is how soon emergency medical response services could reach an injured employee to provide first aid or how soon an injured employee could be transported to receive treatment at a medical facility. From discussions with medical personnel involved in emergency medical response, 15 minutes was established as the maximum

emergency response or transportation time frame to define the term “proximity” in the Note. Therefore, the “Note” for subsection (d)(1) is proposed for modification to read, “The word proximity as used in this subsection means that emergency medical response time or medical treatment for injured employees can be provided within 15 minutes.”

The proposed modifications are necessary for fixed sawmill facilities to ensure the availability of personnel trained in first-aid when the work site is located where medical facilities and/or emergency response services are not obtainable to or from the work site in the acceptable amount of time, which is within 15 minutes.

Subsection (m)

Section 6283 contains the requirements for logging employees who operate chain saws. A modification was proposed in the 15-day notice for subsection (m)(7) so that it would read, “Do not use chain saw or other engine fuels for starting fires or for use as a cleaning solvent.” As a result of written comments, a further modification is proposed for this subsection to provide an exception to permit the use of diesel fuel for starting warming fires. Diesel fuel is a combustible liquid that has been used in logging practice for years to start warming fires. While diesel fuel does not have unusual or volatile fire or explosion hazards, the proposed modification would require approval of the fire authority for starting such warming fires. It should be noted that according to logging industry representatives, warming fires are necessary primarily in the winter months or non-fire season.

The proposed modification is necessary to permit a long-time logging practice that is allowed in federal OSHA’s counterpart logging regulations in 29 CFR 1910.266(d)(9)(iv).

SUMMARY AND RESPONSE TO WRITTEN COMMENTS

Written Comments

Mr. Don Milani, Marsh Advantage America, Safety Director, Associated California Loggers (ACL), by letter dated May 25, 2000.

Comment No. 1:

Mr. Milani states his letter addressing modifications to Section 6283(m)(7) is written on behalf of ACL. Mr. Milani states the original intent of the safety order was to prevent the use of chain saw gas from being used to start warming fires. Mr. Milani believes that since the subsection only addresses the use of chain saws and fuel for chain saws, that it is an inappropriate section to address fuels for starting warming fires. He suggests that the original language be replaced with “Do not use **saw-gas** for starting fires or for use as a cleaning solvent.” The term “engine fuel” as used in the original language could only refer to saw-gas, because it is in the section dealing with portable chain saw operations. Mr. Milani further recommends that language permitting the use of diesel fuel to start warming fires be provided in a new subsection to Section 6262, Fuels, Oil and Other Flammable Liquids.

Response:

In the Final Statement of Reasons, the Board's response to Board Member William Jackson's comment No. 2 indicates that the original proposed language for Section 6283(m)(7) could be subject to interpretation as to whether fuels other than "chain saw fuel" could be used for starting fires. The language proposed above in comment No. 1 by Mr. Milani is essentially the same as that originally proposed for public notice, "Do not use chain saw fuel for starting fires or for use as a cleaning solvent." The Board believes that the language proposed by Mr. Milani could also be subject to interpretation as to whether fuels other than "saw-gas" could be used for starting fires. As indicated in the above rationale for modifications to Section 6286(m)(7), the Board concurs with Mr. Milani that an exception should be provided for the use of diesel fuel. However, the Board believes the appropriate location of the modification should be provided as an exception to the requirements contained in Section 6283(m)(7).

Comment No. 2:

Mr. Milani states that on a cold day, the logging crew will build a warming fire on the landing. Mr. Milani indicates the practice of starting warming fires has been going on since logging began and in his experience of almost thirty years, he is not aware of any injuries caused from starting warming fires. Federal OSHA does address the use of fuels used to start warming fires. In CFR 1910.266(d)(9)(iv), it states, "Flammable and combustible liquids, including chain-saw and diesel fuel, may be used to start a fire, provided the employer assures that in the particular situation its use does not create a hazard for an employee." Mr. Milani indicates that Federal OSHA regulations recognize that warming fires will be used and that fires can be safely started using most fuels. He recommends that the Board consider permitting the use of creating warming fires with diesel fuel.

Response:

Safety personnel within the logging industry concur with Mr. Milani that diesel fuel can be safely used to start warming fires. The California Department of Forestry uses diesel fuel to assist them in starting controlled burns. Mr. Milani's recommendation is consistent with Federal OSHA requirements. The Board concurs with Mr. Milani to the extent that an exception is proposed for Section 6283(m)(7) to permit the use of diesel fuel to start warming fires.

The Board thanks Mr. Milani for his participation in the Standards Boards rulemaking process.

DETERMINATION OF MANDATE

These regulations do not impose a mandate on local agencies or school districts as indicated in the Initial Statement of Reasons.

ALTERNATIVES CONSIDERED

The Board invited interested parties to present statements or arguments with respect to alternatives to the proposed regulation. No alternative considered by the Board would be more effective in carrying out the purpose for which the action is proposed or would be as effective and less burdensome to affected private persons than the adopted action.